

## **Exhibit 12**

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK  
3 Action No: 05cv4622(DGT)(MDG)  
4 -----  
5 TZVI WEISS, et al,  
6 Plaintiffs,  
7 against  
8 NATIONAL WESTMINSTER BANK, PLC.,  
9 Defendant.  
10 -----  
11 NATAN APPLEBAUM, et al.,  
12 Plaintiffs,  
13 against  
14 NATIONAL WESTMINSTER BANK, PLC.,  
15 Defendant.  
16  
17  
18 VIDEOTAPED DEPOSITION OF STEPHEN FOSTER  
19 Friday 16 July 2010  
20 At: 10:00 am  
21 Taken at:  
22 Cleary, Gottlieb, Steen & Hamilton LLP  
23 55 Basinghall Street, London  
24 United Kingdom  
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29 HIGHLY CONFIDENTIAL 2

1 VIDEOGRAPHER: DAVID ROSS  
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1  
2 I N D E X  
3 STEPHEN FOSTER .....6  
4 DIRECT EXAMINATION BY MR. ....6  
5 WERBNER:  
6  
7 CROSS-EXAMINATION BY MR. .... 162  
8 SCHWARTZ:  
9 CROSS-EXAMINATION BY MR. .... 237  
10 BLACKMAN:  
11  
12 INDEX OF EXHIBITS  
13 Foster 1 NW012925-33 .....79  
14 Foster 2 NW014025-36 ..... 103  
15 Foster 3 NW013700 ..... 107  
16 Foster 4 NW013695-97 ..... 112  
17 Foster 5 NW212124 ..... 121  
18 Foster 6 NW180808-10 ..... 138  
19 Foster 7 NW013939-41 ..... 142  
20 Foster 8 NW066667-71 ..... 148  
21 Foster 9 NW067948-49 ..... 156  
22 Foster 10 NW180827-29 ..... 159  
23 Foster 11 NW088194-97 ..... 187  
24 Foster 12 NW017151-54 ..... 202  
25 Foster 13 "Press Room, US Dpt of ..... 220  
26 the Treasury, (No Bates Nos.)  
27  
28 Foster 14 NW066829-32 ..... 226  
29  
30

209

211

1 must be carefully made, as closing the account without an  
2 identifiable reason will most probably result in adverse  
3 media attention. Also, if a terrorism related payment is  
4 identified as being made, we again would suffer untoward  
5 regulatory media attention."

6 Do you think that is what you were addressing  
7 when you were speaking of "reputational issues"?

8 A. Yes, because there are many reasons why we  
9 might close an account for a customer. If a customer  
10 considers that that is unjustified, it is common  
11 practice for them to go to the newspapers and try and  
12 make a story out of it. Any bank, not just us. And  
13 that is not a nice thing to see in the papers because  
14 generally we cannot respond, so the case against us is  
15 shown in a bad light. Terrorism, we don't want to be  
16 related to terrorism at all.

17 Q. So you are perhaps kind of between a rock  
18 and a hard place when you try to close an account like  
19 this? That is what you were saying?

20 A. No, because if we had been concerned that  
21 it was linked to terrorism we wouldn't have had any  
22 hesitation in closing it. The media attention for  
23 closing an account related to terrorism wouldn't have  
24 worried me.

25 Q. So at least at this time then you were not

1 A. Yes.

2 Q. Who was Mr. Davies?

3 A. Rob Davies worked in my team for a period  
4 looking after the administration of our sanctions lists.

5 Q. And Mr. Jones?

6 A. Mr. Jones was one of the members of the  
7 MLPU we just discussed, the Money Laundering Prevention  
8 Unit in Corporate Banking Division.

9 Q. And Mr. Rodger was the head of that unit,  
10 correct?

11 A. Yes, at that time, yes.

12 Q. You say in the second paragraph -- excuse  
13 me. Okay, now, this e-mail is, as I have just  
14 described -- do you remember receiving it?

15 A. I don't remember specifically receiving  
16 it.

17 Q. Do you have any doubt that you received  
18 it, May 20, 2004?

19 A. I have no reason to doubt that I received  
20 it.

21 Q. Would you have received this in the  
22 ordinary course of your business?

23 A. Yes, I would.

24 Q. If you look at the next to last paragraph,  
25 or the last full paragraph, Mr. Cole writes:

210

212

1 really concerned that the accounts were linked to  
2 terrorism?

3 A. We had no evidence to suggest that,  
4 because this is after two Charity Commission  
5 investigations, a number of contacts with, as we have  
6 seen before, Special Branch, which I was not involved  
7 in, so our comfort at the time was that we could  
8 continue to manage the account.

9 Q. You did have a listing by OFAC?

10 A. Yes, indeed.

11 Q. So it was not no evidence, but you did not  
12 consider it to be sufficient?

13 A. That was a listing in the United States.  
14 It doesn't necessarily mean it is a terrorist  
15 organization, that it is actually financing terrorism.

16 Q. What do you understand it to mean?

17 A. That the US authorities suspect it might  
18 be.

19 Q. If you turn over to the first page, the  
20 very last full paragraph, not the single sentence, and  
21 this now -- let me ask you first, please, this appears  
22 to be an e-mail from Guy Cole to you and to Ben Norrie?

23 A. Yes.

24 Q. Cc'd to Messrs Rodger, Davies and Richard  
25 Jones, is that correct?

1 "I am content to leave the sterling and Euro  
2 accounts operating with the semi-annual review taking place  
3 for foreign payments made from the accounts. Consideration  
4 will need to be given regarding the operation of the US  
5 dollar account, as funds from this account will get frozen  
6 if they are transferred via a US domiciled/owned  
7 counterparty."

8 Do you understand what Mr. Cole meant when he  
9 said: "Consideration will need to be given regarding the  
10 operation of the US dollar account."

11 A. I do, yes.

12 Q. Could you explain, please?

13 A. Given that Interpal was listed on OFAC, if  
14 we tried to make a payment on behalf of our customer in  
15 US dollars, it would need to go through the United  
16 States, through a counterparty correspondent bank in the  
17 United States, and would likely be frozen by that US  
18 based institution, meeting their obligations under OFAC.

19 Q. So is Mr. Cole suggesting here, to your  
20 understanding, that you should consider advising the  
21 customer to stop making dollar transactions?

22 MR. BLACKMAN: Objection.

23 A. No, we wouldn't do that.

24 Q. So what is he suggesting?

25 A. So he is suggesting that the funds might